

**This Page is Inserted by IFW Indexing and Scanning
Operations and is not part of the Official Record**

BEST AVAILABLE IMAGES

Defective images within this document are accurate representations of the original documents submitted by the applicant.

Defects in the images include but are not limited to the items checked:

- ☐ **BLACK BORDERS**
 - ☐ **IMAGE CUT OFF AT TOP, BOTTOM OR SIDES**
 - ☐ **FADED TEXT OR DRAWING**
 - ☐ **BLURRED OR ILLEGIBLE TEXT OR DRAWING**
 - ☐ **SKEWED/SLANTED IMAGES**
 - ☐ **COLOR OR BLACK AND WHITE PHOTOGRAPHS**
-
- ☐ **GRAY SCALE DOCUMENTS**
 - ☐ **LINES OR MARKS ON ORIGINAL DOCUMENT**
 - ☐ **REFERENCE(S) OR EXHIBIT(S) SUBMITTED ARE POOR QUALITY**
 - ☐ **OTHER:** _____

IMAGES ARE BEST AVAILABLE COPY.

As rescanning these documents will not correct the image problems checked, please do not report these problems to the IFW Image Problem Mailbox.

2



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
 Address: COMMISSIONER FOR PATENTS
 P.O. Box 1450
 Alexandria, Virginia 22313-1450
 www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

09/988,857

11/15/2001

David G. Cutler

2250/8

9213

7590

09/23/2004

Timothy M. Morella
 BANIAK PINE & GANNON
 Suite 1200
 150 N. Wacker Drive
 Chicago, IL 60201

EXAMINER

KENDALL, CHUCK O

ART UNIT

PAPER NUMBER

2122

DATE MAILED: 09/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

2

Office Action Summary

Application No.

09/988,857

Applicant(s)

CUTLER ET AL.

Examiner

Chuck Kendall

Art Unit

2122

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 November 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

1. This action is in response to the application filed 11/15/01.
2. Claims 1 – 20 are pending.

Claim Objections

3. Claim 1 is objected to because of the following informalities: Error in claim 1 first paragraph, “an current application”, should be “a current application”. Appropriate correction is required.
4. Claims 11, 18 & 20, are objected to because of the following informalities: Duplicate claims. Claim same limitations. Appropriate correction is required.
5. Claims 16 and 17 are objected to because of the following informalities: Improper dependent claims. Claim 16 depends on claim 17 and claim 17 depends on claim 17.

Appropriate correction is required. For purpose of examination Examiner is reading the claims as being dependent on claim 1.

Specification

6. An updated serial number is required on page 15, line 29 of specification. Applicant has incorporates an application by reference into his disclosure but has omitted the serial number. Proper correction is required.
7. Drawings filed 02/25/2002 are being objected to. Labels on FIG. 1 and items on FIG. 2 are not legible. Correction is required

Art Unit: 2122

Claim Rejections - 35 USC § 112

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 10 contains the trademark/trade name MAXML. Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. In the present case, the trademark/trade name is used to identify/describe multiple channel access and, accordingly, the identification/description is indefinite.

Specification

9. The use of the trademark MAXML has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

Art Unit: 2122

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

11. Claims 1 – 9 and 11 – 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Humpleman et al. USPN 6,466,971 B1.

Regarding claim 1, Humpleman anticipates a method of developing an application utilizing a device-independent programming language, comprising:

determining a functionality of an current application, the current application being

desired to be accessed via at least one communication device (FIG.15, 60); and

defining a device-independent application representation of the functionality of the current application in the device-independent programming language (2: 40 –65, also see 13: 20 – 35);

wherein the device-independent programming language can be interpreted by a system to allow for the generation and transmission of a device-specific programming language for each of the at least one communication devices (16:60 – 65).

Regarding claim 2, the method of claim 1, wherein the step of defining the device-independent application representation further comprises:

defining at least one process, each of the at least one processes detailing a task to be completed in accordance with the device-independent application representation (FIG. 15, 58, see objects, methods, XCE and C language representation);

Art Unit: 2122

for each of the defined processes, defining at least one process step, each of the at least one process steps combining to realize the defined process (FIG. 15, 62, see C Message to XML);

for each of the defined process steps, defining at least one user interaction, each of the at least one user interactions combining to realize the defined process step (3: 12 – 30, see defining user interface and commands); and

for each of the defined user interactions, defining at least one element, each of the at least one elements combining to realize the defined interactions (3: 23 – 30, see accepting user input from user in response to user interaction).

Regarding claim 3, the method of claim 2, further comprising storing the device-independent application representation and allowing the memory location to be accessed (28: 18 –21, see “ storing application interface description data...”).

Regarding claim 4, the method of claim 1, wherein the current application corresponds to a set of functionality to interact with an electronic application and one of the at least one communication devices (29: 15 –25).

Regarding claim 5, the method of claim 1, wherein each of the at least one communication devices includes a device presentation language (12: 20 –25, see HTML or XML formats).

Regarding claim 6, the method of claim 1, further comprising performing an invocation call to a back end system to access the functionality of the back end application (2:55 – 60, see database).

Regarding claim 7, the method of claim 6, further comprising transferring data contained within the device-independent application representation, received from the communication device, to the back end system (20:15 – 30).

Regarding claim 8, the method of claim 6, further comprising receiving data from the back end system containing the device-independent application representation (20:45 – 60).

Regarding 9, the method of claim 1, wherein the device-independent programming language is an extensible markup language (XML), [see 12: 20 –25, for HTML or XML formats].

Regarding claim 11, the method of claim 1, wherein the device-independent application

Art Unit: 2122

representation corresponds to a human-information interaction model (6:50 –55, see GUI).

Regarding claim 12, which claims the system version of claim 1, see rationale above as previously discussed.

Regarding claim 13, which claims the system version of claim 2, see rationale above as previously discussed.

Regarding claim 14, which claims the system version of claim 3, see rationale above as previously discussed.

Regarding claim 15, which claims the system version of claim 6, see rationale above as previously discussed.

Regarding claim 16, the system of claim 17, further comprising means for transferring data contained within the device-independent application representation, received from the communication device to the back end system (2: 54 – 57, see storing interface data description in database, also see FIG. 4, which shows interaction from GUI to server which has database).

Regarding claim 17, the system of claim 17, further comprising means for receiving data from the back end system containing the device-independent application representation (2: 50 – 55, see description data can be transferred to first device).

Regarding claim 18, which claims the system version of claim 11, see rationale above as previously discussed.

Regarding claim 19, which claims the device-independent programming language version of claim 1, see rationale above as previously discussed.

Regarding claim 20, the method of claim 1, wherein the device-independent application representation corresponds to a human-information interaction model (6:50 –55, see GUI).

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 2122

13. Claims 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Humpleman et al. USPN 6,466,971 B1 as applied in claim 1, in view of Fleming et al. US2002/0059264 A1

Regarding claim 10, Humpleman discloses all the claimed limitations as applied in claim 1 above. Humpleman doesn't disclose a multiple-channel access extensible language however, Humpleman does disclose using XML as the preferred language and is able to communicate device specific data to one or more devices 13: 25 – 30, in a networked environment. Fleming discloses in analogous art, an XML bus being able to communicate multiple processes between channels and multiple clients simultaneously [Fleming, 0087]. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Humpleman and Fleming because, being able to communicate device specific information to multiple devices simultaneously would make the system more efficient.

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hofman et al. US 2001/00009016 A1.

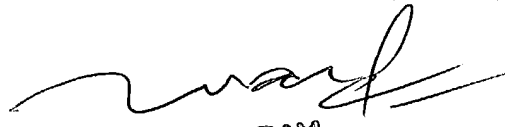
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chuck Kendall whose telephone number is 703-3086608. The examiner can normally be reached on 10:00 am - 6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Dam can be reached on 703-3054552. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2122

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CK



TUAN DAM
SUPERVISORY PATENT EXAMINER